

RESPONSE UNDER 37 C.F.R. § 1.116
Serial No. 09/674,643
Our Ref: Q61622

view of Schlesinger (U.S. Patent No. 4,283,498). For the following reasons, Applicant respectfully traverses these rejections.

To facilitate a comparing of the claimed invention to Dombrowski, et al. Applicant has made by hand two schematic drawings, attached hereto, as follows:

- a first diagram entitled "PRIOR ART" which illustrates functionally the device according to Dombrowski, et al., and

- a second diagram entitled "INVENTION" which illustrates, also functionally, the structural characteristics of the device according to claim 1 of the patent application in references.

By comparing these two diagrams, it is arguable that the device according to Dombrowski, et al. and the device according to the invention have "some common characteristics".

It is assumed from the rejection that the Examiner has analogized the elements of Dombrowski, et al. to elements according to the invention, i.e.,:

↓

36	corresponds to	10
50*	corresponds to	19*
58	corresponds to`	13

invention
↓

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34*	corresponds to	28*
56	corresponds to	22
48	corresponds to	30
12	corresponds to	21

But, as described in the subject application and illustrated in the two diagrams here annexed:

- the hinge 50* according to Dombrowski, et al. is a **FREE HINGE** (without spring effect of equilibrium), while the corresponding hinge 19* according to the invention is a **RESILIENT RETURN HINGE** with an angle of balance α having a value not nil, and

- the hinge 34* according to Dombrowski, et al.'s patent is a **RESILIENT RETURN HINGE** with an angle of balance β having a value substantially nil, while the corresponding hinge 28* according to the invention is a **FREE HINGE** (without spring effect of equilibrium).

This comparison shows that the device according to Dombrowski, et al.'s patent and the one according to the invention do not have the same structure. This demonstration is sufficient to overcome the § 102 rejection based on Dombrowski et. al. because the claimed invention is not taught or suggested by Dombrowski et. al.

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But, moreover, these structural differences provide the device of the invention with some advantages that the device, as disclosed I Dombrowski, et al.'s patent does not give.

Indeed, as described in the subject patent application and highlighted in Applicants' previous response to the first Office Action, and further illustrated in the two attached drawings, the device according to the invention presents **two positions of equilibrium** (I) and (ii): *See*, Figure 1 of the patent application. Position (I) makes it possible to protect the sharp end 2 of the needle 1, and position (II) makes it possible to use the syringe, the position (III) being for neutralizing the needle being unstable without blocking means.

On the contrary, the device according to Dombrowski, et al.'s patent **has only one equilibrium position (Figure 1), at which the sharp end of the needle is not protected.** To obtain equivalent results, at least as the position (I) with the invention device, it is necessary to envisage moreover, with Dombrowski, et al.'s device, a cover (30) in Dombrowski, et al.'s patent (the device according to the invention does not need a such cover). It is common knowledge that it is risky to place such a cover on the needle as the user may be punctured by the needle.

Furthermore, Applicant submits that the Examiner has made some procedural irregularities, in particular in its point (1) of the last Office Action.

Indeed, the Examiner has made only a comparison of the prior art and the invention without analyzing the function of structural means described respectively in the patent

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application disclosure and the Dombrowski, et al patent. It would appear that the Examiner has just compared the drawings, **without looking up the structural differences**, which of course do not appear in the drawings. He has just underlined certain results which can be common.

Moreover, the Examiner writes:

The device is capable of having multiple positions, a "starting position" Figure 2, a "in use position" which would be the position between Figures 2 and 3, and a "locked position", Figure 3"

The Examiner has just forgotten to note that Dombrowski, et al.'s device does not have this characteristic and, therefore, **it needs absolutely the cover 30 to protect the sharp end 26 of the needle 22.** The device as the invention does not need such a cover.

Applicant would like moreover to add that, with the invention's device starting from this first stable position (I), it is possible to go to the second stable position (II) "in use" since the syringe is not neutralized and then, from this second position (II), to go to the third unstable position (III) of neutralization of the needle, but able to become stable thanks to the means of blocking in the sleeve 10. Further, all these three phases can be achieved without having recourse to a cover as in Dombrowski, et al.'s device, only in using and acting on the links 13 and 22 and then protecting the user because fingers do not approach the sharp end 2 of the syringe.

In short, the device according to Dombrowski, et al.'s patent does not comprise any means able to obtain the protection position (I) (and not neutralization) of the sharp end 2 of the needle 1, according to the invention, this position (I) being given by RESILIENT RETURN HINGE at the point 19 of this later device.

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With respect to the § 102 rejection based on Wikes, et al., Applicant respectfully submits that Wikes, et al. suffers from the same deficiencies as Dombrowski, et al. In addition, Applicant respectfully submits that Wilkes, et al. does not include other features required by claim 15. For example, claim 15 recites that the sleeve includes a first channel portion which intercepts the bore and further recites that a shutter is slidably mounted in this channel. Further, claim 15 recites means for applying thrust on the shutter when the sleeve comes to the base on passing from the first shutter position to the second shutter position where the shutter is situated in the through-bore which receives the needle.

Although the Examiner does not so indicate, it is assumed that the Examiner is contending that reference numeral 15 corresponds to the claimed sleeve. Although the Examiner asserts that the sleeve has two channels, Applicant respectfully disagrees. As shown, for example in Figures 2 and 3, the sleeve 15 has a single through-bore for receiving the needle 25. It does not include a separate channel that intercepts the through-bore, or a shutter which is slidably mounted in the channel to allow the through-bore to be covered when the sleeve comes into contact with the base, as claim 15 requires. Instead, in Wikes, et al., there is a separate cap 45 that is rotatable, as shown in Figures 5-7 to cover the bore.

Further, Applicant notes that the Examiner has ignored specific limitations in claim 15. For example, referring to paragraph 2 of the Office Action, the Examiner fails to address the feature recited in claim 15 regarding the “means for applying thrust on said shutter when the sleeve comes close to the base on passing from the front shutter position to the second shutter position”. Further, the Examiner has failed to address the requirements that the shutter be

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slidably mounted in the first channel portion. These deficiencies on the part of the Examiner are fatal to the rejection. Thus, it is submitted that claim 15 and its dependent claims are allowable.

In view of the foregoing, it is submitted that all claims pending in the application are allowable. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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WASHINGTON OFFICE



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PATENT TRADEMARK OFFICE

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